

§ 759.5

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(b) A request for benefits under this part must be submitted on a completed Form FSA-1042. The Form FSA-1042 should be submitted to the FSA county office serving the county where the hog operation is located but, in any case, must be received by the FSA County Office by the close of business on September 24, 1999. Applications not received by the close of business on September 24, 1999, will be returned as not having been timely filed and the hog operation will not be eligible for benefits under this program.

(c) The hog operation requesting benefits under this part must certify with respect to the accuracy and truthfulness of the information provided in their application for benefits. All information provided is subject to verification and spot checks by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

[64 FR 6497, Feb. 10, 1999, as amended at 64 FR 47099, Aug. 30, 1999]

§ 759.5 Eligibility.

(a) If a hog operation is owned by one or more individuals or entities who have an annual gross revenue of \$2.5 million or more in farming and ranching operations in calendar year 1998, the payment to the operation will be reduced by a pro rata share based upon the ownership interest of such entity or individual.

(b) To be eligible to receive cash payments under this part, a hog operation must:

(1) Have sold fewer than 2,500 hogs (produced in the United States) during the period of July 1, 1998, through December 31, 1998;

(2) Have sold hogs on a negotiated cash basis or under a contract other than a fixed-price or cost-plus contract during the marketing period;

(3) Be engaged in the business of producing and marketing agricultural products at the time of filing the application; and

(4) Apply for payments during the application period.

(c) Hogs marketed during the marketing period under fixed-price contracts, cost-plus contracts, or under any circumstance not equivalent to be eligible for benefits under this part with respect to hogs subject to such sales.

(d) A hog operation must submit a timely application and comply with all other terms and conditions of this part and those that are otherwise contained in the application to be eligible for benefits under this part.

[64 FR 6497, Feb. 10, 1999, as amended at 64 FR 47099, Aug. 30, 1999]

§ 759.6 Rate of payment and limitations on funding.

(a) Benefits under this part may be made to hog operations for the quantity of eligible slaughter hogs and feeder pigs actually marketed during the marketing period in accordance with the limitations set forth in this section. Payments will be calculated by operation and shall be made in an amount determined by:

(1) Multiplying \$3.60 by the number of eligible feeder pigs marketed during the marketing period; plus

(2) Multiplying \$10 by the number of eligible slaughter hogs marketed during the marketing period;

(3) Limiting the payment per hog operation otherwise calculated under paragraphs (a)(1) and (2) of this section to \$5,000; and

(4) Reducing the amount due as calculated under paragraphs (a)(1) through (3) of this section by amounts previously paid under this part based on marketings in the same period and, for claims filed after February 12, 1999, by reducing the payment further to zero as necessary to insure subject to paragraph (c), that the total payments under this part do not exceed \$175 million.

(b) Producers who filed an application under this part prior to February 12, 1999, do not need to file another application in order to receive benefits at the increased rates announced in the

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FEDERAL REGISTER published on August 30, 1999. A producer who wishes to amend an application filed prior to February 12, 1999, may file an amended application by the deadline for new applications specified in § 759.4 of this part.

(c) To the extent that \$175 million is not sufficient to cover all claims under this part, claims filed on or before February 12, 1999, shall be paid in full for the eligible hogs and feeder pigs which were the subject of that claim. For claims filed after that date, the claims will be paid in the manner deemed appropriate by FSA to assure, to the extent practicable, that the claims are paid in the order in which they are filed, until the available funds are expended at which point no additional claims will be paid.

[64 FR 47099, Aug. 30, 1999]

§ 759.7 Appeals.

Any hog operation which is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 11 of this title and part 780 of this title.

§ 759.8 Misrepresentation and scheme or device.

(a) A hog operation shall be ineligible to receive assistance under this program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a hog operation engaged in a misrepresentation, scheme, or device, or to any other person as a result of the hog operation's actions, shall be refunded with interest together with such other sums as may become due. Any hog operation or person engaged in acts prohibited by this section and any hog operation or person receiving payment under this part shall be jointly and severally liable for any refund due under this section and for related

charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 759.9 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible operator of a hog operation shall be eligible for assistance under this part only if such operation meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 759.10 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a hog operation that is eligible to receive benefits in accordance with this part, such hog operation may receive such benefits.

§ 759.11 Maintaining records.

Hog operations making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein and the number of head of slaughter hogs and feeder pigs sold during the marketing period. Such records and accounts must be retained for at least 3 years after the date of the cash payment to hog operations under this program.

§ 759.12 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this part, and if any